

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

**DONALD ODOMS,**

Petitioner,

v.

No. 6:18-cv-00125-AC

OPINION AND ORDER

**BRANDON KELLY, Superintendent  
Oregon State Penitentiary; and  
OREGON BOARD OF PAROLE AND  
POST-PRISON SUPERVISION,**

Respondents.

**MOSMAN, J.,**

On September 2, 2020, Magistrate Judge John V. Acosta issued his Findings and Recommendation (F. & R.) [ECF 53]. Judge Acosta recommended that I deny Mr. Donald Odoms's Petition for Writ of Habeas Corpus [ECF 1] and decline to issue a certificate of appealability. Mr. Odoms filed objections [ECF 55] and Respondents filed a response [ECF 56]. Upon review, I agree with Judge Acosta and DISMISS this case with prejudice.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to

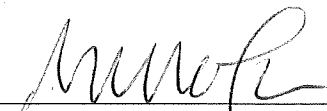
make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F. & R. to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F. & R. depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F. & R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review, I agree with Judge Acosta's recommendation and I ADOPT the F. & R. [ECF 53] as my own opinion. Because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. See 28 U.S.C. § 2253(c)(2). This case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 30 day of November, 2020.

  
MICHAEL W. MOSMAN  
United States District Judge